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Conference Report Highlights

March 8, 2000

Highlights of the Conference Report to accompany H.R. 1000, Aviation Investment and Reform Act for the 21st Century (AIR-21)

H.R. 1000, in reauthorizing the programs of the Federal Aviation Administration (FAA) through FY 2003, is intended to meet the anticipated increases in demand in air travel. [The FAA yesterday issued its annual forecast of aviation travel, predicting domestic boardings will grow from last year's 516 million to 800 million by 2011.] The authorization provides the FAA a total of \$40 billion through FY 2003 for operations, facilities and equipment, and the Airport Improvement Program (AIP). Of that amount, \$33 billion would be guaranteed from the trust fund and \$6.7 billion would be "available to be appropriated" from the general fund.

The conference agreement includes provisions to promote a competitive aviation industry, including the addition of slots and slot exemptions at major airports in New York, Chicago, and Washington (Reagan National). Also, conferees agreed to an increase in airline passenger fees to help the airports pay for new gates and other facilities in order to promote competition and ease congestion.

It also includes provisions to improve airline customer service and passenger safety. In addition, there are provisions to curb the harmful effects of excessive commercial air tour overflights of national parks.

H.R. 1000 passed the House on June 15, 1999, and the Senate passed it in lieu of S. 82 by voice vote on October 5, 1999.

Authorizations

Airport Improvement Program (AIP) Authorization

\$2.5 billion in 2000
\$3.2 billion in 2001
\$3.3 billion in 2002
\$3.4 billion in 2003

Facilities & Equipment Authorization

\$2.7 billion in 2000

\$2.7 billion in 2001

\$2.8 billion in 2002

\$3.0 billion in 2003

FAA Operations

\$6.6 billion in 2001

\$6.9 billion in 2002

\$7.4 billion in 2003

RE&D (3 year authorization)

\$224 million in 2000

\$237 million in 2001

\$249 million in 2002

Passenger Facility Charge (PFC)

The agreement would allow FAA to approve a PFC of up to \$4.50, an increase of \$1.50 over the current ceiling that airports collect when passengers pass through their hub. Medium or large hub airports charging the higher PFC must give back 75 percent of their entitlement. (The House-passed bill included a PFC increase of up to \$6.00; the Senate-passed bill contained no increase.)

Airline Customer Service

The agreement requires the airlines to submit airline customer service plans to the Department of Transportation (DOT). The DOT Inspector General (DOTIG) must monitor the implementation of each plan, with a status report due to Congress on June 15, 2000 and a final report due December 31, 2000. It requires DOT to initiate a rulemaking within 30 days of enactment to increase the domestic baggage liability limit. The penalty for violations of aviation consumer laws and regulations are increased from \$1,100 to \$2,500 per violation. The Government Accounting Office (GAO) is directed to study "hidden city" and "back to back" ticketing. The conference also added a reference preventing discrimination against the handicapped as one of the responsibilities of the DOT consumer office. The DOTIG final report must also include a comparison of the customer service of airlines that submitted plans to DOT with those that did not submit such plans.

Unruly Passengers

The agreement imposes a fine of \$25,000 on a person who assaults or threatens to assault the crew or another passenger, or poses a threat to the safety of the aircraft or its passengers. Also, it requires the Justice Department to notify the House and Senate authorizing Committees within 90 days as to whether it plans to set up a program to deputize local law enforcement officials.

Commission to Ensure Consumer Information and Choice in the Airline Industry (Travel Agents)

The conference report establishes a commission to study the financial condition of travel agents, especially small travel agents, to find out whether their financial condition is declining, and to pinpoint what effects this will have on consumers, and what if anything should be done about it.

Slots

New York airports: Slot restrictions are eliminated after January 1, 2007. In the interim, DOT is directed to provide exemptions to any airline flying to the two New York airports (LaGuardia and JFK) if it will use aircraft with 70 seats or less and will (1) provide service to a small hub or non-hub that it did not previously serve, (2) provide additional flights to a small hub or non-hub that it currently serves, or (3) provide service with a regional jet to a small hub or non-hub as a replacement for a prop plane. DOT is directed to grant exemptions to new entrant and limited incumbents for service to New York. Exemptions are only for Stage 3 aircraft.

Chicago: Slot restrictions at Chicago are eliminated after July 1, 2002. On July 1, 2001, slot restrictions will apply only between 2:45 p.m. and 8:14 p.m. Exemptions to the slot rules are the same as those for New York. DOT is also directed to grant 30 slot exemptions to new entrants and limited incumbents for service to Chicago. These new entrant exemptions must be granted within 45 days. Exemptions are only for Stage 3 aircraft.

Slots will no longer be needed in order to provide international service at O'Hare. However, the Secretary may limit access in those cases where the foreign country involved does not provide the same kind of open access for U.S. airlines. DOT is prohibited from withdrawing slots from U.S. airlines in order to give them to foreign airlines. Any slot previously withdrawn from U.S. airlines and given to a foreign airline must be returned to the U.S. airline. Slots held by U.S. airlines to provide international service can be converted to domestic use.

Reagan National: DOT is directed to grant 12 slot exemptions within the perimeter, and 12 slot exemptions outside the perimeter. These slots could go to more than one airline. Exemptions must be for flights between 7:00 a.m. and 10:00 p.m. There can be no more than two additional flights per hour. Of the flights within the perimeter, four must be to small hubs or non-hubs and eight must be to medium, small or non-hubs.

General Provisions:

DOT must act on slot exemption requests within 60 days. Exemptions may not be bought, sold, leased or otherwise transferred. For purposes of determining whether an airline qualifies as a "new entrant" or "limited incumbents" for receiving slot exemptions, DOT shall count the slots and slot exemptions of both that airline and any other airline with which it has a code-share agreement at that airport. The maximum number of slots or slot exemptions that an airline can have and still qualify as "limited incumbent" is raised from 12 to 20.

Noise Abatement

Ten percent of the entitlement money at Reagan National Airport must go to noise abatement. Priority shall be given to applications from the four slot-controlled airports for noise set-aside money. DOT shall do a study comparing noise at these four airports 10 years ago and now.

Animal Transportation

The conference agreement modifies the Senate provision to ensure that airlines will continue to be able to carry animals while information is collected to determine whether legislative remedies are warranted. To this end, scheduled airlines will be required to provide monthly reports to DOT describing any incidents involving animals. In the meantime, DOT is directed to work with the airlines to improve the training of employees regarding animal transportation and to provide information to pet owners.

National Parks Overflights

Commercial air tour operators must conduct commercial air tours over national parks or tribal lands in accordance with applicable air tour management plans (ATMP). Before beginning air tours over a national park or tribal land, a tour operator must apply to the FAA for the authority to conduct tours. No applications shall be approved until an ATMP is developed and implemented. FAA shall make every effort to act on an application within 24 months of receiving it. Priority shall be given to applications from new entrant air tour operators. Air tours may be conducted at a park without an ATMP if the tour operator secures a letter of agreement from the FAA and the park involved, and if the total number of flights is limited to five flights in a 30-day period.

FAA in cooperation with the Park Service shall establish an ATMP for any park at which someone wants to provide commercial air tours. The ATMP shall be developed with public participation. It could ban air tours or establish restrictions on them, and such plan will apply within one-half of a mile outside the boundary of the park. The plan should include incentives to use quiet aircraft.

Prior to the establishment of the ATMP, the FAA shall grant interim authority to operators that are providing air tours. This interim authority may limit the number of flights. Interim operating authority may also be granted for new entrants if (1) it is needed to ensure competition in the provision of air tours over the park and (2) 24 months have passed since enactment of this Act and no ATMP has been developed for the park involved. Interim operating authority should not be granted to new entrants if it will create a safety or a noise problem.

The above shall not apply to the Grand Canyon, tribal lands abutting the Grand Canyon, or to flights over Lake Mead that are on the way to the Grand Canyon (most or all of which are covered by existing statute). Additionally, air tours over the Rocky Mountain National Park are prohibited.

FAA shall establish standards for quiet aircraft within one year or explain to Congress why it will be unable to do so. Quiet aircraft may get special routes for Grand Canyon air tours and may not be subject to the cap on the number of flights there.

[Prepared with the assistance of the Commerce Committee Subcommittee on Aviation.]

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